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Filing date: **04/20/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91214086
Party	Plaintiff Starbuzz Tobacco Inc.
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Date	04/20/2016
Attachments	Response to Board Order and Request to Resume Proceedings 042016.pdf(266806 bytes)

**IN THE UNITED STATES PATENT AND TRADE MARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 85/774,314

Mark: MYST

Filed: November 8, 2012

Published: November 19, 2013

STARBUZZ TOBACCO, INC.,

Opposer,

vs.

PHILLIP MELNICK,

Applicant.

)
) **OPPOSITION NO: 91214086**
)

) **STARBUZZ TOBACCO, INC.'S STATUS**
) **REPORT PURSUANT TO THE BOARD'S**
) **MARCH 29, 2016 ORDER;**
) **REQUEST TO RESUME PROCEEDINGS**
) **AND RESET ALL DEADLINES**
)

Petition Filed: December 18, 2013

INTRODUCTION

Opposer, Starbuzz Tobacco, Inc. ("Starbuzz") hereby submits this status report in response to the Board's March 29, 2016 Order requesting the status of the civil action entitled, *Starbuzz Tobacco, Inc. v. Philip Melnick*, Case No. 8:15-cv-00224 (the "Action").

Starbuzz further Requests the Board to resume the above-captioned Opposition proceeding and reset all trial and pretrial deadlines pursuant to Trademark Trial and Appeals Board Manual of Procedure § 510.02(b).

BRIEF PROCEDURAL HISTORY

Starbuzz, initiated this proceeding by filing a Notice of Opposition on December 18, 2013 against Applicant Philip Melnick's ("Melnick") trademark application serial number 85/774,314 for "MYST". On January 16, 2015, Starbuzz's current counsel, filed a Notice of Appearance. Shortly thereafter, on February 9, 2015 Starbuzz initiated the Action for, *inter alia*, trademark infringement against Melnick.

THE DISTRICT COURT ACTION

On July 31, 2015, the District Court entered a default judgment and permanent injunction against Melnick. [ECF No. 18]. Subsequently, Melnick filed a motion to set aside the default, which was granted by the District Court on September 9, 2015. [ECF No. 25]. Shortly thereafter, on or around September 16, 2015, the parties began conducting settlement discussions. On or about October 9, 2015, Melnick filed a motion to dismiss the District Court Action based on lack of personal jurisdiction in California. The District Court granted Melnick's motion to dismiss on November 30, 2015. [ECF No. 29]. Unfortunately, since settlement did not materialize, Starbuzz contemplated re-filing the Action in New York, where Melnick has not contested jurisdiction.

However, after considering its options, Starbuzz has decided that it would currently like to move forward with the above-captioned Opposition TTAB Proceeding. Therefore, Starbuzz respectfully requests that the Board reset all deadlines as follows:

Initial Disclosures Due:	6/20/16
Expert Disclosures Due:	10/20/16
Discovery Closes:	11/20/16
Plaintiff's Pre-Trial Disclosures:	01/04/17
Plaintiff's 30-Day Trial Period Ends:	02/18/17
Defendant's Pre-Trial Disclosures:	03/02/17
Defendant's 30-Day Trial Period Ends:	04/19/17

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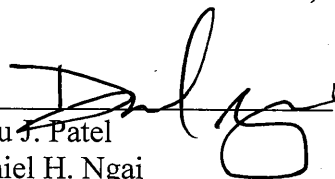
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Plaintiff's Rebuttal Disclosures: 05/03/17

Plaintiff's 15-day Rebuttal Period Ends: 06/03/17

Dated: April 20, 2016

Respectfully Submitted,
THE PATEL LAW FIRM, P.C.



Natu J. Patel

Daniel H. Ngai

Kunal Jain

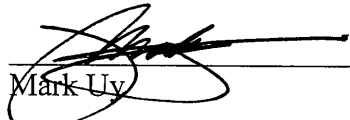
Attorneys for Starbuzz Tobacco, Inc.

CERTIFICATE OF SERVICE

I certify that a copy of this **STARBUZZ TOBACCO, INC.'S STATUS REPORT
PURSUANT TO THE BOARD'S MARCH 29, 2016 ORDER; REQUEST TO RESUME
PROCEEDINGS AND RESET ALL DEADLINES** is being served via United States mail on
this the 20th day of April, 2016 to the following:

Applicant's Attorney/Representative:

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Mark Uy